



Commonwealth of Massachusetts  
Department of Conservation and Recreation

Massachusetts Watershed Protection Act (WsPA)  
M.G.L. ch. 92, § 107A

Watershed Protection Regulations  
350 CMR 11.00

## WsPA Form 3 Application for Variance

### INSTRUCTIONS

#### USE OF THIS FORM

This form may be used to apply for a Variance under the Watershed Protection Regulations as to whether or not your structure, use, or proposed activity will be permitted under the Watershed Protection Act.

To obtain further information, please refer to the 1) "Guidance Document for Making Applications Under the Watershed Protection Act"; 2) Watershed Protection Act, Chapter 36 of the Acts of 1992; or 3) the Watershed Protection Regulations, 350 CMR 11.00. These documents are available from either office listed below or the Division's website at [www.mass.gov/dcr/waterSupply/watershed/wsapa.htm](http://www.mass.gov/dcr/waterSupply/watershed/wsapa.htm).

#### FILING OF THIS FORM

If your property is located in **Boylston, Holden, Leominster, Paxton, Princeton, Sterling, West Boylston, or Worcester**, then send your form and all attachments to:

DCR, Division of Water Supply Protection  
Office of Watershed Management  
Wachusett Reservoir  
Attn: Environmental Planning  
180 Beaman St.  
West Boylston, MA 01583  
Tel.: (508) 792-7806  
Fax: (508) 835-6018

AND

Department of Environmental Protection  
Central Region 2  
627 Main St.  
Worcester, MA 01608  
Attn: Andrea Lemerise

If your property is located in: **Athol, Barre, Hardwick, Hubbardston, New Salem, Oakham, Orange, Petersham, Phillipston, Rutland, Shutesbury, Templeton, Westminster, or Wendell**, then send your form and all attachments to:

DCR, Division of Water Supply Protection  
Office of Watershed Management,  
Quabbin Reservoir  
Attn: Environmental Planning  
485 Ware Rd.  
Belchertown, MA 01007  
Tel.: (413) 323-6921 ext 501  
Fax: (413) 784-1751

AND

Department of Environmental Protection  
Central Region 2  
627 Main St.  
Worcester, MA 01608  
Attn: Andrea Lemerise

WsPA Form 3  
Application for Variance  
INSTRUCTIONS (Continued)

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**AFTER FILING**

The Division will hold a public hearing within **thirty days** of the Date of Submission as defined in 350 CMR 11.03. Note that the Date of Submission is defined as the date on which all information necessary to make the Variance Decision has been received – not necessarily the date of initial intake of this request. DCR will notify you of the date, time and location of the public hearing.

The Massachusetts Environmental Policy Act (MEPA) requires proponents of a WsPA Variance—*except projects that are solely a single-family dwelling*—to file an Environmental Notification Form (ENF) with the Executive Office of Environmental Affairs (301 CMR 11.03(4)(b)(6)). The MEPA process must be completed prior to the start of the WsPA Variance review. The WsPA Variance application will not be considered complete, and thus the official counting of 30 days towards holding the Variance hearing, until the applicant submits a copy of the Certificate issued by the Secretary of the Executive Office of Environmental Affairs stating that MEPA requirements have been fulfilled. Please see 301 CMR 11.03 for the complete list of MEPA review thresholds that require filing an ENF; for more information, contact the MEPA Office at (617) 626-1020 or [www.mass.gov/envir/mepa/index.htm](http://www.mass.gov/envir/mepa/index.htm).

Within **thirty days** of the close of the public hearing, the Division shall issue a written Variance Decision. If the Variance is **granted**, the Division may impose reasonable conditions, safeguards and limitations to protect water quality. If the Variance is **denied**, the Decision will contain a statement of reasons for the denial. The Notice of Variance decision must be recorded in the Registry of Deeds or the Land Court before the Variance Decision can take effect.

If you wish to appeal the Variance Decision, you must file a Notice of Claim for an Adjudicatory Proceeding with the Commissioner and the Division within **twenty-one** days of issuance of the decision. See 801 CMR 1.00 et seq. for applicable procedures.

**CHECKLIST**

Before you send your request to the Division, please check to be sure that you have enclosed:

- ✓ A copy of the property deed or property tax bill to show ownership.
- ✓ A complete description of your proposal related to any structure, use and/or activity.
- ✓ Written permission from the owner, if the applicant is not the owner of record.
- ✓ A completed and signed request WsPA-Form 3.
- ✓ If project is not a *single-family Dwelling*, then a Certificate from the Executive Office of Environmental Affairs stating that all Massachusetts Environmental Policy Act requirements have been fulfilled.

**OTHER REQUIREMENTS**

Please note that the granting of a Variance from the provisions of the Watershed Protection Act does not relieve the applicant of the duty to obtain any other required state, federal, or local permits or variances. Where applicable it will still be necessary to obtain wetlands permits or variances, Title 5 variances, 401 water quality certifications, storm water permits (including the development of a Storm Water Pollution Prevention Plan), and any local zoning actions.

**END OF INSTRUCTIONS**



**WsPA Form 3**  
**Application for Variance**

**If the property is in the Wachusett Reservoir watershed (see Instructions) mail to:**

DCR, Division of Water Supply Protection,  
Office of Watershed Management, Wachusett Reservoir  
Attn: Environmental Planning  
180 Beaman St.  
West Boylston, MA 01583

**For DCR office use only**

DCR WsPA File #: \_\_\_\_\_  
Initial Intake Date: \_\_\_\_\_  
Submission Date (complete): \_\_\_\_\_  
Lot Identifier: \_\_\_\_\_

**If the property is in the Quabbin Reservoir or Ware River watersheds (see Instructions) mail to:**

DCR, Division of Water Supply Protection,  
Office of Watershed Management, Quabbin Reservoir  
Attn: Environmental Planning  
485 Ware Rd.  
Belchertown, MA 01007

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**I. - OWNER/APPLICANT/LOT IDENTIFICATION**

*Please fill in all parts of this section as appropriate*

• **Ia. OWNER OF RECORD**

**Owner's Mailing Address:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

• **Ib. APPLICANT/REPRESENTATIVE**

**Applicant's / Representative's Mailing Address:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

• **Ic. LOT IDENTIFICATION**

**Lot Address and Location:**

Street Address: \_\_\_\_\_ Town: \_\_\_\_\_

Town Assessor's Sheet Number: \_\_\_\_\_ Town Assessor's Lot Number: \_\_\_\_\_

County: \_\_\_\_\_ Registry of Deeds' Book Number: \_\_\_\_\_

Deed Book Page Number: \_\_\_\_\_ Certificate of Title Number: \_\_\_\_\_

Name of Reservoir or Tributary: \_\_\_\_\_

• **Id. IDENTIFICATION OF PROPOSAL OR EXISTING STATUS OF LOT**  
**Description of Proposed Structure, Use and/or Activity**

Please include information regarding all activities proposed for the project and the existing status of the Lot including: the change in use; extent of expansion (e.g., number of bedrooms and square footage); any land alteration, or increase in impervious area. Please be specific with respect to any activities on the list of prohibited uses found in the Watershed Protection Regulations, 350 CMR 11.04(3). **Attach** plans and other information.

• **Ie. SUPPORTING MATERIALS**  
**Studies, Surveys, and Additional Materials:**

Please **attach and list** any materials, including the Land Surveyor's determination and plans for the proposed Activity, if any, that are included in support of this Application for Variance.

_____ Land Surveyor's Determination	_____ Soil Conditions Map
_____ Town Assessor's Map	_____ Topographical Plan (e.g., U.S.G.S.)
_____ Site Plan (signed and stamped)	_____ Water Quality Analysis
_____ Deed or Property Tax Bill	_____ Slope Map
_____ Cross-section	_____ Mitigation Details
_____ Other	_____ Owner's Permission Note

**Additional materials may be necessary in order for the Division to make a decision.** A water quality analysis may be necessary to support the assertion that the proposal does not impair the quality of water in the Watershed. The Division will contact you if additional information will be required.

## **II. ACTION REQUESTED**

In filing a request for a variance, you are seeking to establish that your proposal will not impair the quality of surface or ground water in the Watersheds or cause substantial detriment to the public good. To make this determination, the Division of Water Supply Protection requires the following information: a) soil conditions; b) topography; c) slope; d) water quality impact analysis; e) other information depending on the site-specific nature of the proposal. Please see the "Guidance Document for Making Applications Under the Watershed Protection Act" for more information.

### **• IIa. PHYSICAL CONTEXT - SOIL CONDITIONS**

**Attach a map** prepared at a minimum scale of 1" = 100' showing soil types mapped by the United States Department of Agriculture (USDA), Natural Resource Conservation Service (NRCS).

**Describe the Characteristics** of the soils specific to the area in question, including:

Erodibility: \_\_\_\_\_

Texture: \_\_\_\_\_

Drainage Class: \_\_\_\_\_

Hydrologic Soils Group: \_\_\_\_\_

Analysis of Permeability: \_\_\_\_\_

Site-specific soils data (i.e., borings, test pits, percolations test, etc.) should also be submitted if available. Include copies of all field logs, notes, observations, conclusions and test methods used, both witnessed and unwitnessed by the local Board of Health.

### **• IIb. PHYSICAL CONTEXT - TOPOGRAPHY**

**Attach a topographical plan** (minimum scale 1" = 100') prepared and stamped by a professional surveyor or engineer licensed in Massachusetts, showing:

- The location of all areas subject to the Act.
- The contour elevations at two-foot intervals or less.
- Location of all groundwater, soil, and percolation test locations.
- Distances from all mapped and unmapped streams, bordering vegetated wetlands, ponds, and water bodies.
- Property lines, North arrow, street names.

**Attach a cross-section showing:**

- Depth to the maximum annual high ground water table.
- Depth to ledge or refusal.

- **Iic. PHYSICAL CONTEXT - SLOPE**

**Attach a map** (at a scale of 1" = 100' or larger) showing the slope of all lands within areas subject to the Act, depicting areas of less than 3%, between 3% and 15%, and greater than 15% slope, and the average slope of the tributary through the areas of interest.

- **Iid. WATER QUALITY IMPACT ANALYSIS**

State impact of proposal on water quality.

If this analysis is based on data, provide these data. Based on information submitted, the Division may further require an analysis of this proposal's potential impact on water quality, including effects on color, turbidity, pH, temperature, dissolved oxygen, total suspended solids, total phosphorous, ammonia nitrogen, total Kjeldahl nitrogen chloride, and fecal coliform bacteria counts. Supporting data and descriptions of methodology will also be requested.

If such an analysis is necessary, the Division will notify you. The Division may also request clarifying information regarding what has been submitted with this form. See information regarding date of submission under "After Filing" on page 2 of the WsPA Form 3 Instructions.

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### **III. STATEMENT OF NO EFFECT**

This proposed Structure, Use, and/or Activity will not result in substantial detriment to the public good or impairment of the quality of water in the watersheds because (include a description of all mitigating measures, quantifying the pollutant removal efficiencies of those measures, and attachments as necessary).

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### **IV. CERTIFICATION**

(Please read statement below and 350 CMR 11.09 before signing)

**Other Requirements:** All relevant provisions of the Wetlands Protection Act, Rivers Protection Act, Title 5, NPDES Phase II Storm Water Discharge permit program, and other state, federal, and local laws and regulations remain in full force. The applicant should address these issues with the local Conservation Commission, Board of Health, and other appropriate municipal, federal, and state agencies. The applicant should address these issues with the local Conservation Commission, Board of Health, and other appropriate municipal, federal, and state agencies.

*I certify that the information provided on this form and in all attachments is correct and accurate to the best of my knowledge. I understand that the Division of Water Supply Protection, Office of Watershed Management staff may, at reasonable times, inspect my property for the purposes of confirming information given here and for determining the impact of this proposal on water quality.*

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
(Owner of Record)

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
(Applicant, if different than Owner of Record)

**Note:** *If the owner's signature is not included, then a document must be attached that certifies that the applicant has the owner's permission to file this Request on his or her behalf.*